

BEFORE THE
SURFACE TRANSPORTATION BOARD



228351

FINANCE DOCKET NO. 35438

**EIGHTEEN THIRTY GROUP, LLC – ACQUISITION EXEMPTION –
LINE OF RAILROAD IN ALLEGANY COUNTY, MD**

VERIFIED NOTICE OF EXEMPTION

FINANCE DOCKET NO. 35437

228353

**GEORGES CREEK RAILWAY, LLC – OPERATION EXEMPTION –
LINE OF RAILROAD IN ALLEGANY COUNTY, MD**

VERIFIED NOTICE OF EXEMPTION

FINANCE DOCKET NO. 35436

228355

**DUNCAN SMITH AND GERALD ALTIZER
CONTINUANCE-IN-CONTROL
EIGHTEEN THIRTY GROUP, LLC
AND GEORGES CREEK RAILWAY, LLC**

VERIFIED NOTICE OF EXEMPTION

DOCKET NO. AB-55 (Sub-No. 659X)

228357

**CSX TRANSPORTATION, INC. – ABANDONMENT EXEMPTION –
IN ALLEGANY COUNTY, MD**

**EIGHTEEN THIRTY GROUP, LLC – PETITION FOR EXEMPTION
FROM THE PROVISIONS OF 49 U.S.C. §10904(f)(4)(A)**

**REPLY TO COMMENTS OF DUNCAN SMITH, GERALD ALTIZER,
GEORGES CREEK RAILWAY LLC AND EIGHTEEN THIRTY GROUP LLC**

1. I, Lois Lowe, protestant in the above proceedings, herewith reply to the November 17, 2010 Comments of Duncan Smith, Gerald Altizer, Georges Creek Railway LLC and Eighteen Thirty Group LLC (“**Comments**”).

2. I am the majority owner of (I have a 51% interest in) WMS LLC and Western Maryland Services LLC.

3. On p.16 of the Comments, Mr. Heffner, counsel for Duncan Smith, Gerald Altizer, Georges Creek Railway LLC and the Eighteen Thirty Group LLC, argued that:

A. He has represented Gerald Altizer since 2005, and that he “continued to represent Mr. Altizer and Western Maryland Services in negotiations with CSX and before the Board during this period.”

Reply: Mr. Heffner has never filed a pleading with the Board on behalf of Mr. Altizer. All of Mr. Heffner’s pleadings associated with AB-55 (Sub No. 659X) were filed on behalf of Western Maryland Services LLC, an entity that James Riffin (“**Riffin**”) acquired control of (98% interest in) on March 1, 2006. Riffin, not Altizer, paid Mr. Heffner’s retainer fee (\$2,500.00) to file Western Maryland Services’ Offer of Financial Assistance. Riffin, not Altizer, controlled Western Maryland Services beginning March 1, 2006.

Both I and Mr. Riffin object to Mr. Heffner representing anyone other than Western Maryland Services LLC or Riffin or me in any matter that relates to the AB-55 (Sub No. 659X) proceeding.

4. On p.17 Mr. Heffner argued that Riffin “appears to be engaged in the unauthorized practice of law before the Board.” In support of this argument Mr. Heffner noted that my filings with the Board were “more or less identical to those submitted by Mr. Riffin,” and that copies of my pleadings were sent to Mr. Heffner in the same envelope as Mr. Riffin’s pleadings.

Reply: I fully agree with what Mr. Riffin has written. Rather than ‘reinvent the wheel,’ I have chosen to adopt, with Mr. Riffin’s permission, virtually verbatim, what Mr. Riffin has

scribed. This has been done for my convenience and efficiency. It is less wasteful of my financial resources to place my pleadings in the same envelope that is used to transmit Mr. Riffin's pleadings to the Board, to Mr. Heffner, and to all other parties.

5. The Board in *Verified Petition of the Maryland Transit Administration for Declaratory Order*, STB FD No. 34975, made it clear that prior Board approval was not required when only the real estate and track infrastructure were being transferred. [In the FD 34975 proceeding, Conrail had transferred the real estate and track infrastructure associated with two lines of railroad to the Maryland Transit Administration ("MTA"), and the MTA had thereafter transferred to Railroad Ventures LLC, a portion of the real estate and track infrastructure that Conrail had previously transferred to the MTA. The MTA also granted permission to Baltimore County to remove several at-grade crossings, and granted permission to several adjacent land owners to remove the rails and to use the right-of-way for parking lots. None of these MTA actions were deemed unlawful by the Board.]

6. WHEREFORE, I respectfully ask that the Board permit this Reply to the Comments of Mr. Smith, etc., to provide the Board with a more complete record,

7. And for such other relief as would be appropriate.

8. I certify under the penalties of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Respectfully,



Lois Lowe
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Timonium, MD 21093
(443) 226-5077

CERTIFICATE OF SERVICE

I hereby certify that on the 30th Day of November, 2010, a copy of the foregoing Reply to Comments of Duncan, etc. was mailed via first class mail, postage prepaid, to: John Heffner, Ste 200, 1750 K Street NW, Washington, DC 20006 (202) 296-3333; and was hand delivered or mailed to the U.S. Trustee, 2nd Floor, 101 W. Lombard St., Baltimore, MD 21201; to Duncan Smith, 10706 Beaver Dam Road, Cockeysville, MD 21030; to Mark Friedman, DLA Piper, 6225 Smith Ave, Baltimore, MD 21209, and to Charles Spitulnik, Kaplan Kirsch, STE 800, 1001 Connecticut Avenue, NW, Washington, DC 20036, counsel, counsel for the MTA.

A handwritten signature in cursive script that reads "Lois Lowe".

Lois Lowe